Income Tax Information Bulletin #41

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Subject: TREATMENT OF NET OPERATING LOSSES FOR INDIVIDUALS UNDER THE INDIANA ADJUSTED GROSS INCOME TAX ACT

The net operating loss of an individual is computed in the same manner as the Indiana Adjusted Gross Income is computed for Indiana tax purposes except that:

1. You may not deduct a net operating loss carryover or carryback from any other year.

2. You may not use capital losses in excess of your capital gains, nor may your non- business capital losses exceed your non-business capital gains, even though you have an excess of business capital gains over business capital losses.

3. You may not deduct 60% (50% before 11/1/78) of the excess of a net long-term capital gain over a net short-term capital loss.

4. You may not use non-business deductions in excess of your non-business income. Note: Itemized deductions cannot offset non-business income in determining the Indiana Net operating loss.

You may not claim personal exemptions or exemption for dependents when computing the loss. The amount of the net operating loss that may be carried back and forward for the Indiana income tax purposes shall be that portion of the federal adjusted gross income allocated to Indiana for the taxable year the operating loss is sustained as adjusted. A taxpayer must irrevocably elect by the due date (including extensions) for filing the return for the tax year in which the loss was incurred the same carryback or carryforward treatment for Indiana tax purposes as elected for Federal tax purposes.

In applying for refund as a result of a net operating loss, the loss must be fully explained and all Federal returns and supporting schedules attached. Adjustments also must be made for college credit, retirement income credit, and credit for taxes paid to other states where applicable.

A refund initiated by a net operating loss carryback must be claimed by the taxpayer within three (3) years from the original due date of the return for the loss year (without regard to extensions). A taxpayer must claim a net operating loss carryforward within three (3) years from the date of the payment (or the due date, whichever is later) of the taxable year for which the alleged overpayment has been made.

Methods Available for Benefiting From a Net Operating Loss

Method (a)

For tax years beginning prior to January 1, 1976, the rule is to first carry a loss back to the third year preceding the loss year. Any amount of the loss not used to offset taxable income for the third preceding tax year is carried to the second preceding tax year and then to the first preceding tax year, if not used up in the second preceding tax year. Any remaining loss may be carried forward five subsequent tax years or until such time as the loss is absorbed. The balance of the loss (if any) which is not applied in the five (5) carryover years, cannot be carried to any later years.

Under the 1976 Tax Reform Act, net operating loss rules were changed to reflect the following situations:

Method (b)

This method is basically the same as method (a) described above; however, the net operating loss remaining after the three (3) years carryback may now be carried forward to the seven (7) subsequent tax years following the loss year.

Method (c)

Pursuant to the Tax Reform Act of 1976, a taxpayer entitled to a carryback period for a net operating loss may elect to forgo the entire carryback period. If the election is made, the loss may be carried forward only. The carryforward period extends to the seventh tax year following the loss. Methods (b) and (c) may be used for loss years beginning after December 31, 1975.

Intervening Year Modifications

If a net operating loss is not absorbed (fully offset against income) in the first year to which it is carrier, the amount of loss then carried to a later year must be reduced not only by the part used to offset income in the earlier year but also by certain modifications or adjustments attributable to that earlier year. This adjusted gross income must be modified by the following:

a) You may not deduct capital losses exceeding the capital gains included in gross income.

b) You may not deduct 60% (50% before 11\1\78) of the excess of a net long-term capital gain over a net short-term capital loss.

Example: **LOSS YEARS**	**1977**	**1978**
Salaries	8,000.00	2,000.00
Interest less U S Govt. Interest	700.00	100.00
Schedule C-Income (Loss)	(20,000.00)	(35,000.00)
Schedule F-Income (Loss)	(1,500.00)	(10,000.00)
Tax Add Back	2,500.00	3,000.00
Schedule D -Net Non-Business Capital Gain (Loss), before 50% or 60% deduction	(500.00)	6,000.00
Business Net Capital Gain (Loss)	3,000.00	(7,000.00)
Capital Gain Deduction	(1,250.00)	(3,000.00)
Self-Employed Retirement Plan (a)	(200.00)	(300.00)
Adjusted Gross Income per IT-40	($9,250.00)	($44,200.00)
Adjustments in computing net operating loss *Add back of capital losses in excess of capital gains or non-business capital losses in excess of non-business capital gains	500.00	1,000.00
*Add back of capital gain deduction	1,250.00	3,000.00
*Add back of non-business deductions in excess of non-business income	-0-	200.00
Indiana Net Operating Loss	**(7,500.00)**	**(40,000.00)**

a) This is considered a non-business deduction and must be reduced by non-business type income-interest and dividends.

Carryback Years	**1974**	**1975**	**1976**
Salaries	$5,000.00	$5,000.00	$5,000.00
Interest less U S Govt. interest	300.00	100.00	400.00
Schedule C-Income (Loss)	8,000.00	4,000.00	6,000.00
Schedule F-Income (Loss)	3,000.00	3,000.00	2,000.00
Tax Add Back	1,200.00	2,300.00	1,800.00
Schedule D-Net Non-Business Capital Gain (Loss) before 50% Deduction	3,000.00	(1,500.00)	
Net Business Capital Gain (Loss)	(4,000.00)	1,000.00	2,000.00
50% Capital Gain Deduction	(1,500.00)		(1,000.00)
Self-employed Retirement Plan	200.00	(200.00)	200.00
Adjusted Gross Income per IT-40	$14,800.00	$13,700.00	$16,000.00

Loss Year – Tax Year Ending – 12/31/77
Indiana Net Operating Loss – $7,500.00

Effect Of Loss Year

Tax Year Ending	Indiana AGI as Last Determined by Dept. Records	Intervening Year Modifications	Amount of NOL Deduction Carried Back/Forward	Indiana AGI after NOL Deduction	Remaining NOL
(3rd Preceding Tax Year) 12/31/77	$14,800.00	-0- (b)	$7,500.00	$7,300.00	$00.00

b) no calculation because NOL is absorbed in the first year to which it is carried

Loss Year – Tax Year Ending 12/31/78
Indiana Net Operating Loss – $40,000.00

Effect of Loss Year

Tax Year Ending	Indiana AGI as Last Determined by Dept. Records	Amount of Deduction Carried Back/Forward	Indiana AGI after NOL Deduction	Intervening Year Modification	Remaining NOL
(3rd Preceding Tax Year) 12/31/75	$13,700.00	$13,700.00	-0-	$500.00	$25,800.00
(2nd Preceding Tax Year) 12/31/76	$16,000.00	$16,000.00	-0-	$1,000.00	$8,800.00
(1st Preceding Tax Year) 12/31/77	-0-	-0-	-0-	-0-	$8,800.00

Net Operating Loss Carryover To 1979 - $8,800.00

Donald H. Clark
Commissioner